

1     that more clearly, is that we got along well together. We  
2     respected each other's radio.

3           Q     And you called him specially as well as in  
4     business though, didn't you?

5           A     Socially?

6           Q     Socially.

7                     Something outside of your job. Did you ever had a  
8     conversation with Michael Rice --

9           A     Outside of my job? Outside of my job or outside  
10    of my radio conversations?

11          Q     Outside of your job

12          A     Outside of my job. Yes, we did. We discussed the  
13    radio industry overall. We did have conversations of that  
14    nature as well.

15          Q     Several, right?

16          A     Yeah. Yes, I would say several.

17          Q     Both before 1991 and after?

18          A     Yeah, not as much though before.

19          Q     You said that on a number of occasions Mike  
20    directed you to do one thing or another.

21                     Did you have far more conversations with him about  
22    radio in general than you did with receiving directives from  
23    Michael Rice?

24          A     Well, that's a complicated question to ask,  
25    because the purpose of a phone call was always immediate

1 business. After the immediate business we would start  
2 discussing radio in general

3 Q So your testimony is that you never called Mike  
4 Rice outside of an immediate business concern?

5 A There was always something on my mind. Relating  
6 to my mind, yes.

7 Q Without exception?

8 A That I can think of, yes.

9 And it could have been one simple little item that  
10 took about a minute to discuss, and then we would spend 20  
11 minutes talking about radio broadcasting, the industry  
12 itself.

13 Q So the bulk of your time would be taken up in  
14 those conversations by talking about general topics, right?

15 A With each call? With each call?

16 Q Well, the one you were just describing.

17 A Oh, some of them were like that, sure.

18 Q And now you are suing the company for wrongful  
19 termination.

20 A That's correct.

21 Q You don't think it's fair the way you were  
22 terminated, correct?

23 A I think it was inappropriate.

24 Q You don't think it's fair, right?

25 Do you know what fair is?

1                   MR. MASTANDO: Argumentative. Objection, Your  
2 Honor. Asked and answered.

3                   JUDGE STEINBERG: No, that's overruled.

4                   BY MR. GAFFNEY:

5           Q     Go ahead.

6           A     Do I think it was fair that I was fired for that  
7 reason?

8           Q     Do you think your termination was fair?

9           A     I don't know that I have ever thought of it in  
10 that context. I thought of it as inappropriate.

11          Q     Well, let's think about it in that context.

12          A     Okay.

13          Q     Do you have a concept of what fair is and what  
14 fair isn't?

15          A     I can relate it to a parent, yes. What's fair  
16 with one child and what's fair with another child, right.  
17 Why does my 8-year-old get to wear makeup and my 6-year-old  
18 does not, for example. That's how I can relate it.

19          Q     The question isn't about parentage. It's about  
20 your termination from the stations.

21                   Do you think that was fair or do you think that  
22 was unfair?

23          A     I think it was inappropriate.

24          Q     That's not the question, sir.

25          A     Okay, but my answer is I think it was

1 inappropriate.

2 Q I know that's your answer. But you have to answer  
3 the question I am asking you. And the question is, do you  
4 think it's fair or unfair your termination?

5 A Well, since I think it's inappropriate, I would  
6 have to then characterize it as unfair.

7 Q Okay.

8 A Is that correct?

9 Q You seem to have a very difficult time with the  
10 notion of fairness, and I am just trying to get to whether  
11 you think it's fair or not.

12 MR. MASTANDO: Objection. Your Honor.

13 JUDGE STEINBERG: Well, we have an answer. So why  
14 don't we -- you know, move on.

15 BY MR. GAFFNEY:

16 Q So your testimony is that it was unfair.

17 MR. MASTANDO: Objection.

18 THE WITNESS: If it's inappropriate, then it's  
19 also unfair.

20 MR. GAFFNEY: Okay.

21 THE WITNESS: Because it can't be -- it would be  
22 appropriate and fair. I mean, correct? Both them are  
23 negatives, correct?

24 BY MR. GAFFNEY:

25 Q So it's your testimony, sir, so if something is

1 inappropriate, you equate it as unfair in your mind; is that  
2 what you are saying?

3 A No, I am not. You are trying to.

4 Q Sir, you have to answer the question that's asked.  
5 I am not trying to be difficult

6 A I answered it as --

7 Q I am just trying to get an answer.

8 A I know, but I answered it as best I could. I have  
9 never characterized it as a fair or unfair move on their  
10 part.

11 Q And I am asking you to do that now, sir.

12 A And you are asking me to characterize it as such.

13 Q As fair or unfair, yes.

14 A So, therefore, my thought processes are saying I  
15 think it was inappropriate. Therefore, if it was  
16 inappropriate, the answer would have to be that it was  
17 unfair.

18 Q Thank you, sir.

19 You've never been fired before, have you; that was  
20 your testimony?

21 A No, I have not.

22 Q Who fired you?

23 A Richard Hauschild, the general manager at KFMZ.

24 Q Did Mike Rice have anything to do with that?

25 A Not to my knowledge

1           Q     You said in your testimony that you sent  
2 memorandum to Mike Rice, but you intentionally did not  
3 indicate on that memoranda a cc?

4           A     That's correct. Yes.

5           Q     And that was in order to hide from somebody else  
6 that you had sent it to Mike?

7           A     That's correct.

8           Q     You also said this was a document-oriented  
9 company.

10          A     Yes.

11          Q     And that they stressed full and accurate  
12 documentation; is that a fair statement?

13          A     In regards to termination, that's a fair and  
14 correct statement.

15          Q     So it was only in regard to termination that it  
16 was a document-oriented company. huh?

17          A     They definitely had their share of paper trail. I  
18 can tell you that. That's a Mike Rice phrase, as a matter  
19 of fact.

20          Q     And you say you don't create paper trails, isn't  
21 that what your testimony was?

22          A     I do create paper trails as well. That was  
23 something that I learned from him.

24          Q     But you testified here today that "I don't create  
25 paper trails." That's what you said in response to one of

1 the questions today, right?

2 A What question, because I don't recall saying I  
3 don't create paper trails.

4 Q When you were talking about the dismissal of  
5 Janice Pratt --

6 A No, I said I did not have a paper trail; that I  
7 needed a paper trail to terminate her.

8 Q Now, anyone ever direct you to not put a cc on a  
9 memo so that the recipient wouldn't really know where the  
10 document was going, or is that something you did yourself?

11 A Mike preferred to -- there was an omnipotence  
12 about Mike that he --

13 Q Not Mike.

14 A I'm sorry.

15 Q I'm talking about --

16 MR. MASTANDO: Objection, Your Honor.

17 MR. GAFFNEY: Just the question that I asked.

18 MR. MASTANDO: He's answering the question.

19 BY MR. GAFFNEY:

20 Q Did anyone ever tell you or was it your idea?

21 A It was my idea.

22 Q You testified earlier that at one point in time 10  
23 new records had been added to the play format.

24 A Um-hmm.

25 Q And your testimony was that Mike Rice complained

1     that that was too much new music and not enough of the old  
2     standby's, correct?

3           A     Right.

4           Q     Did you change --

5           A     No. With that particular circumstance?

6           Q     Right.

7           A     No, the one that I was referring to, instead what  
8     I did is I explained to him why that we added 10 new  
9     records.

10          Q     But you also said that when Mike said something,  
11     what Mike said went.

12          A     That's correct.

13          Q     At least on this occasion that wasn't true?

14          A     No, on all occasions we discussed it.

15          Q     No, no, no, no. That's not my question.

16          A     Okay.

17          Q     Mike Rice complained that adding 10 records was  
18     something he didn't want done

19          A     Um-hmm.

20          Q     And on this occasion it wasn't true that what he  
21     said went. You had a later conversation and in fact the  
22     record format wasn't changed, correct?

23          A     No. After our discussion of why those 10 records  
24     were added --

25          Q     Oh, you did change it then?



1 A No.

2 Q Okay.

3 A After a discussion of why those 10 records were  
4 added, Mike no longer required me to dump some of those  
5 records.

6 Q Prior to that discussion, Mike asked you to dump  
7 them, right?

8 A The start of the conversation.

9 Q Correct.

10 A The start of the conversation --

11 Q Yes.

12 A -- Mike said, "Can you believe this guy added ten  
13 records," for example.

14 Q Now, at that point in time you didn't just say,  
15 "Well, what Mike said goes," and take the records off. You  
16 had a conversation with Mike. You explained what was going  
17 on, and then in the end nothing happened; is that correct?

18 A No, with -- with every circumstance there was  
19 always a discussion about it.

20 Q With every circumstance?

21 A Yes. There was always a discussion whenever he  
22 brought something up.

23 Q So it isn't quite accurate that what Mike said  
24 goes?

25 A Yes, it is absolutely accurate, because in the end

1     it was an accurate -- it is an accurate statement. In the  
2     final analysis of that conversation.

3           Q     In this particular instance you are saying that  
4     Mr. Rice changed his mind about it after he had a discussion  
5     with you?

6           A     That's correct.

7           Q     Didn't you testify today that Mike never changed  
8     his mind? I have that here in quotes in my notes. Mike  
9     never changed his mind.

10                  That's not entirely true then, is it?

11          A     Well, no, that wouldn't be actually.

12          Q     Okay. Now, you spoke with regard to the  
13     termination of Janice Pratt in that she squawked or squeaked  
14     or something; isn't that right, when you say Mike Rice told  
15     you?

16          A     Yes, she screeches, or squawks, or et cetera.

17          Q     And then you even made reference to a comment that  
18     he asked how she sounded like when she was having sex.

19                  Did you say that?

20          A     He wondered if she sounded like that while she was  
21     having sex.

22          Q     All right, now, you took a deposition in the case  
23     against -- in your case against Contemporary for wrongful  
24     discharge, right?

25          A     Yes.

1 Q And in there you discuss the termination of Janice  
2 Pratt, right?

3 A Yes, that was brought up in that deposition.

4 Q Okay. And you never mentioned this issue of Mr.  
5 Rice asking what she sounded like when she had sex in your  
6 deposition when you talked about this, did you?

7 A No, and I can tell you why.

8 Q I didn't ask you why

9 A Okay.

10 Q But you said it here, didn't you?

11 A What?

12 Q You did make that comment here.

13 A Yes.

14 Q Now, that's another occasion where Mike Rice told  
15 you to do something, you allege, but you didn't quite do  
16 what he said, right?

17 A Yes, I did.

18 Q Yes, you did what he said?

19 A Yes. It took a little while to do it but I did do  
20 what he said.

21 Q Well, isn't it true that you testified that you  
22 had an independent reasons and specifically did not follow  
23 the reasoning that you were given to terminate here?

24 A That would not have been the reason to fire her.

25 Q Well, you testify here, and I will show you a page

1 of your deposition, page 15. You say, "The reason she was  
2 fired was because she was not showing up for her job on  
3 time."

4 Is that true or is that false?

5 A That is correct.

6 Q All right, then, you don't say in here that you  
7 fired her because she had a squeaky voice.

8 A That is correct as well.

9 Q And that's why Mike told you to fire her, right?

10 A That is correct.

11 Q And you created a paper trail to get there, right?

12 A For termination of Janice Pratt?

13 Q Yes.

14 A Yes.

15 Q And is what you put in that paper trail true?

16 A Yes, it was -- well, let me ask you. When you say  
17 "created a paper trail," are you suggesting that I  
18 fabricated a paper trail?

19 Q I'm asking you, sir

20 A If I created --

21 Q Those were your words. You created a paper trail,  
22 and I just want to know if what you created in that paper  
23 trail was true.

24 A Oh, absolutely.

25 Q Why did you have to create it then?

1           A     To have documentation on why she was terminated.

2           Q     The reason why she was terminated was not the  
3     reason that you said Mike Rice told you she was terminated,  
4     right? There is a different independent reason?

5           A     That's correct.

6           Q     And you terminated here?

7           A     Yes, I did.

8           Q     Now, with regard to the termination of Mr. Steel  
9     or Mr. McMillan, that termination was precipitated by his  
10    changing the recording status of the station's form in the  
11    R&R; is that right?

12          A     And subsequently actually changing -- altering the  
13    format.

14          Q     All right. Now, did Mr. Steel maybe resent your  
15    oversight of him a little bit?

16          A     It's possible.

17          Q     Was there a little friction between the two of  
18    you?

19          A     No.

20          Q     No friction?

21          A     I don't believe so. No.

22          Q     Now, who is the first one -- well, strike that.

23                 When you found out that he had changed the status  
24    in the R&R report, you wrote a memc about that, right?

25          A     It's quite possible that I did.

1 Q Who did you send it to?

2 A It depends on what the content of the memo is.  
3 And I would be interested to know whether or not you have a  
4 copy because it was not in my case.

5 Q Didn't you send a memo to Janet Rice -- Janet Cox,  
6 excuse me?

7 MR. MASTANDO: Objection, Your Honor. The best  
8 evidence would be the memo.

9 MR. GAFFNEY: Your Honor, I am asking questions.  
10 I haven't even presented anything for evidentiary purposes,  
11 by the way, of documentation

12 JUDGE STEINBERG: It's cross-examination. But I  
13 would say that if the memo --

14 MR. MASTANDO: It's a collateral issue.

15 MR. GAFFNEY: No, no. it's not a collateral issue,  
16 Your Honor.

17 JUDGE STEINBERG: No. I think --

18 MR. MASTANDO: All right.

19 JUDGE STEINBERG: -- if you want to get the facts,  
20 show him the memo. Is it a memory test?

21 MR. GAFFNEY: Well, let me start there.

22 BY MR. GAFFNEY:

23 Q Do you remember sending a memo to Janet Rice --  
24 Janet Cox reporting that Mr. Steel had changed the  
25 programming, the reporting programming R&R?

1 A To Janet Cox?

2 Q Yes.

3 A Well, clearly I see you have it there on the  
4 table. I don't --

5 Q Do you remember?

6 A I do not recall that. No, I don't.

7 Q Let me show you a document and see if this  
8 refreshes your recollection.

9 A Thank you.

10 (Witness reviews document.)

11 THE WITNESS: I'm a slow reader. I'm trying to  
12 remember the content of that

13 BY MR. GAFFNEY:

14 Q Does that refresh your recollection as to having  
15 written a memo?

16 A Oh, yes. I'm sorry I didn't know that that was  
17 the question.

18 Q That's the only question I have.

19 All right, and you reported to Janet that the  
20 reporting of the station format had changed?

21 A Yes, that's correct.

22 Q And Janet had a strong reaction to that, didn't  
23 she?

24 A Yes, she did.

25 Q She didn't like it, right?

1           A     That's correct.

2           Q     And indeed the reason that Mr. Steel was fired,  
3     the primary reason was because of this activity, right?

4           A     Because of that activity, yes, that's correct.

5           Q     And that led to his termination?

6           A     Yes.

7           Q     And you probably knew that when you sent the memo  
8     out, that it was going to be threatening to his job, right?

9           A     No, I did not know that.

10          Q     You didn't think that that was a big mistake on  
11     behalf of Mr. Steel?

12          A     Yes, but I thought it could be something that we  
13     could fix.

14          Q     Do you think that when he was fired because of  
15     this mistake, that that was unjustified?

16          A     No, I thought it was justified because we could  
17     not in fact fix it.

18          Q     To the extent there was any friction between you  
19     and Mr. Steel, you said this memo and he was fired, that  
20     friction was over, right? He was out of the picture?

21          A     He was not fired immediately after that memo, if I  
22     recall. I don't know if you have his employment dates and  
23     compare it to the date on the memo.

24          Q     He was ultimately fired though, right?

25          A     He was ultimately fired.



1           Q     And you didn't have to deal with him anymore,  
2     right?

3           A     That's correct.

4           Q     Now, you mentioned a Mr. Madden who actually  
5     resigned, he wasn't fired, correct?

6           A     That is correct.

7           Q     And Mr. Rice, you claimed, told you to fire him?

8           A     He told me to fire him.

9           Q     But you didn't?

10          A     No, I had not yet found a replacement for him  
11     before he --

12          Q     You did not fire him, right?

13          A     Excuse me?

14          Q     You did not fire him in accordance with Mr. Rice's  
15     instructions that you claim you received, right?

16          A     That is correct.

17          Q     You also said there was a problem because he was  
18     associated with a woman named Sally, right? The two of them  
19     might go if one of them went?

20          A     Right. There was a concern there because they  
21     were both -- they were living together. And we thought if  
22     we would lose one, we would lose the other.

23          Q     Is it inconsistent with your memory, sir, that Mr.  
24     Steel was fired four days after you wrote this memo?

25          A     No, that is not. I don't recall when he was

1 fired.

2 Q Could it be that it was only four days after this  
3 and not a significant period of time?

4 MR. MASTANDO: Speculative, Your Honor.

5 JUDGE STEINBERG: Sustained.

6 MR. MASTANDO: The witness answered that he  
7 couldn't remember.

8 BY MR. GAFFNEY:

9 Q So you really don't know as a fact that Mr. Steel  
10 was fired some time thereafter?

11 A Well, he certain was fired some time after me  
12 having written that memo. When exactly is what I do not  
13 know.

14 Now that you have told me four days later.

15 Q Apparently immediately, right?

16 A Well, apparently.

17 JUDGE STEINBERG: Do you have an independent  
18 recollection of that?

19 THE WITNESS: No, I do not.

20 JUDGE STEINBERG: Okay.

21 BY MR. GAFFNEY:

22 Q Okay, we were talking about an associate of Mr.  
23 Madden by the name of Sally.

24 You said that that created a problem, and you  
25 wanted a really sharp answer because it's a difficult

1 problem, isn't it?

2 A Um-hmm.

3 Q And who did you call? You called Janet, right?

4 A Right, Janet Cox, because any time it came to  
5 personnel management, management questions or sales-  
6 oriented, and including promotions, it was usually Janet or  
7 the general manager that I would go to.

8 Q And with Jeff Davis or Presley, you say that Mike  
9 instructed you to fire him, but in fact what happened there  
10 was a mutually agreed to departure. That's your testimony.

11 A That's correct. He and I had a private  
12 conversation regarding that.

13 Q And you don't really have any information on who  
14 or why Ben Jacobs was ultimately fired, right?

15 A On who fired him?

16 Q No. You don't know ultimately for what reason or  
17 who fired Ben Jacobs. You don't have any knowledge of that,  
18 right?

19 A You mean what reason he was told by whoever fired  
20 him?

21 Q Yes.

22 A Is that the question?

23 Q You don't the reason why Ben Jacobs was ultimately  
24 fired?

25 A By whoever fired him?

1 Q Correct.

2 A No, I do not.

3 Q Okay.

4 A No.

5 Q Now, when Mr. Jacobs was transferred to WZZQ,  
6 there was a meeting about that transfer with you, and  
7 Richard and Janet to discuss that.

8 Do you remember that?

9 A I don't recall that at this time.

10 JUDGE STEINBERG: Who is Richard?

11 MR. GAFFNEY: Richard Hauschild. Excuse me.

12 BY MR. GAFFNEY:

13 Q Now, we talked a little bit about the termination  
14 of Mr. Savage, and a ride that you had to Terre Haute.  
15 Actually, Mr. Savage wasn't fired until a couple of weeks  
16 after that, right?

17 A No, we had made that trip expressly for that  
18 purpose.

19 Q So on that trip was the first time you had any  
20 conversation about the termination of Mr. Savage?

21 A No, I knew about that before.

22 Q Okay. How early before?

23 A Well, it had to have been a few weeks.

24 Q You said that you and Mr. Hauschild and Mr. Rhea  
25 waited in the conference room and Janet went downstairs to

1 actually fire him?

2 A No, that's not correct.

3 I said me and Mike Rice.

4 Q You and Mike Rice?

5 A And John Rhea.

6 Q And John Rhea. Excuse me.

7 A Yes. And waited while --

8 Q You, Mike Rice and John Rhea waited in the  
9 conference room and then --

10 A In John's office while Janet went downstairs to  
11 fire him.

12 Q Okay. So Mr. Rhea wasn't there when Mr. Savage  
13 was fired?

14 A No, he was not.

15 Q All right. And if he said he was, he would be  
16 mistaken, right?

17 A You mean if he said he was present in the room  
18 when he was fired? Yeah, that's correct.

19 Q It's correct that he would be mistaken?

20 A Yes.

21 Q Now, you are aware that Mr. Savage had resigned  
22 himself on May 28th of 1992. weren't you?

23 A Mark Savage?

24 Q Savage.

25 A No, that's more to about the time when he would

1 have started.

2 Q Okay.

3 A Unless Mark Savage and Mark Bianchi are two  
4 different people.

5 Q No, I am using Mark Bianchi and Mark Savage as one  
6 and the same person.

7 A Um-hmm.

8 Q Were you aware that he submitted a letter of  
9 resignation on May 28th of 1992 only to revoke it later  
10 that day?

11 A No, I was not.

12 Q So, in fact, his problems with the job could have  
13 been much, much further back than even when you heard that  
14 there was contemplation of terminating him?

15 MR. MASTANDO: Objection, Your Honor. It could  
16 have been?

17 JUDGE STEINBERG: Yes Also, I don't like "could  
18 have been." I will sustain it. If you want to show him the  
19 letter.

20 BY MR. GAFFNEY:

21 Q Prior to your --

22 MR. MASTANDO: Your Honor, we would like to see  
23 that letter that he's referred to.

24 JUDGE STEINBERG: No, he can answer.

25 MR. ZAUNER: But, Your Honor, in fact he's

1 testified that if there was a letter that was submitted --

2 JUDGE STEINBERG: Who is testifying? Counsel is  
3 not testifying. Counsel is not testifying.

4 BY MR. GAFFNEY:

5 Q You're not aware that Mr. Savage had resigned and  
6 questions his position far before you went to Terre Haute to  
7 fire him. You're not aware of that?

8 A No, I don't recall being aware of that at all.

9 Q Now, you said that Mike used to listen to the  
10 station and in fact I think, and tell me if I am wrong, that  
11 you characterized the manner in which he listened was like a  
12 listener would do, like a radio listener would, and he would  
13 call you with comments, right?

14 A Did I characterize it that way?

15 Q Yes. Did you in our conversation?

16 JUDGE STEINBERG: Well, you're not talking about  
17 today?

18 MR. GAFFNEY: I'm talking about before.

19 MR. GAFFNEY: I just want to make sure I don't  
20 mischaracterize what you said. I want to see if you agree  
21 with it, first of all.

22 BY MR. GAFFNEY:

23 Q But Mike would give you comments and suggestions  
24 like a listener might make.

25 A Yes, that -- yeah, that is correct because that's

1 very important in the analysis of a station, is you don't  
2 want to be so close to it that you can't make an objective  
3 opinion on the station.

4 Q And Mr Rice is a student of radio; isn't that  
5 fair to say?

6 A I don't --

7 Q A student of radio?

8 A For me he -- I call him a radio junkie

9 Q Oh, radio junkie.

10 A I think he's referred to himself as that as well.  
11 I'm sorry, because I was going to refer to him as a teacher  
12 actually.

13 Q A radio junkie. All aspects of radio?

14 A Yeah.

15 Q And integral part of his life, right?

16 A Yes, absolutely.

17 Q And I think you said that, at least implied that  
18 you learned a lot about the radio business through Mike  
19 Rice, correct?

20 A Yes, I did.

21 Q But you were program director and you were in  
22 charge of programming at your station, right? And you could  
23 make the calls on your own, correct?

24 A Some. Yes.

25 Q Did anybody ever tell you that it's part of your



1 job description that there were certain things that you  
2 couldn't do without clearing it with someone above you?

3 A Specifically came out and told me that?

4 Q Yes.

5 A Could you restate the question?

6 Q Did anyone ever tell you that there were certain  
7 things within your job description as program director that  
8 you could not do unless you got clearance from someone high  
9 up?

10 A Well, I would have to put it this way.

11 When I became program director, Scott Boltz was  
12 the general manager. Anytime I came to him with an air  
13 check of a disc jockey or those most important and critical  
14 issues regarding programming, like hiring a disc jockey,  
15 Scott, first of all, would want to hear the tape as general  
16 manager. Richard was the same way, he wanted to hear the  
17 tape. And it was always, "Well, you better play it for Mike  
18 and see what he thinks."

19 Q Well, so you had to clear some things, or at least  
20 you thought you had to clear some things through the GM,  
21 right?

22 A I would have gotten fired a long time ago had I  
23 not cleared them.

24 Q Through the GM?

25 A Or Mike.